

Message Text

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43

ACTION EB-07

INFO OCT-01 EA-07 ISO-00 FCC-01 CCO-00 CIAE-00 OTPE-00

INR-07 NSAE-00 OC-06 USIA-06 COME-00 BIB-01 /036 W

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R 130810Z AUG 76

FM AMEMBASSY TOKYO

TO SECSTATE WASHDC 1569

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E.O. 11652: N/A

TAGS: ETEL, EINV, JA,

SUBJECT: U.S. COMPANIES ATTEMPTS TO MARKET TIME-SHARING SERVICES
IN JAPAN

REF: STATE 187524, TOKYO 10986, STATE 166645

1. GOJ FORMALLY APPROVED ON AUGUST 11 TYMESHARE'S APPLI-
CATION TO ESTABLISH COMPUTER TIME-SHARING SERVICE COMPANY
IN JAPAN. NO DECISION HAS BEEN MADE, HOWEVER, ON TECHNICAL
ASPECTS OF OPERATIONS, E.G., WHETHER COMPUTER CENTER
MUST BE LOCATED IN JAPAN, WHETHER "MESSAGE SWITCHING" IS
INVOLVED, ETC.

2. IN CONVERSATION WITH EMBOFF ON AUGUST 12, TELECOMMUNI-
CATIONS MINISTRY (MPT) OFFICIALS STATED THEY ORIGINALLY
QUESTIONED APPLICATION FOR THREE REASONS: 1) IMPACT OF
FOREIGN COMPANIES' ENTRANCE ON DOMESTIC TIME-SHARING
INDUSTRY; 2) THE SECURITY OF JAPANESE DATA BEING TRANSMITTED,
STORED AND PROCESSED OVERSEAS AND THE PROBLEM OF
UNAUTHORIZED ACCESS TO THE DATA: AND 3) THE QUESTION
WHETHER MESSAGE-SWITCHING WOULD BE CONDUCTED IN
VIOLATION OF ARTICLE 55-(13) OF DOMESTIC PUBLIC
TELECOMMUNICATIONS LAW, WHICH STATES THAT ONLY KDD, THE
AUTHORIZED INTERNATIONAL CARRIER CAN UNDERTAKE
MESSAGE SWITCHING. MPT OFFICIALS SAID THE FIRST
TWO PROBLEMS ABOVE WERE RESOLVED (EMB NOTE: THANKS

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IN PART TO MITI INTERCESSION), BUT THE PROBLEM OF

MESSAGE-SWITCHING REMAINS.

3. MPT INDICATED THAT MESSAGE-SWITCHING WITH WHICH THEY ARE CONCERNED WOULD TAKE PLACE IN U.S. EMBOFF POINTED OUT THAT JAPANESE DOMESTIC LAW ON MESSAGE SWITCHING SHOULD NOT COVER SWITCHING WITHIN U.S. JURISDICTION. MPT OFFICER STATED THAT IF MESSAGE SWITCHING TAKES PLACE ON ANY TRANSMISSION ORIGINATING IN JAPAN, REGARDLESS OF THE COUNTRY IN WHICH THE SWITCHING OCCURS, MPT HAS THE RIGHT TO DENY THE USE OF AN INTERNATIONAL CIRCUIT UNDER THE AUTHORITY OF ARTICLE 55-(13).

4. MPT'S POSITION APPEARS TO CONTRAVENE ACCEPTED PRINCIPLES OF LAW, I.E., MPT WILL APPLY A DOMESTIC LAW TO AN ACTION (MESSAGE SWITCHING WHICH TAKES PLACE IN A FOREIGN COUNTRY. MPT SAID, HOWEVER, THAT ALTHOUGH THE MESSAGE SWITCHING TAKES PLACE IN U.S., IT IS "THEIR MESSAGE" UNTIL IT REACHES FINAL DESTINATION.

5. EMBASSY RECOGNIZES POSSIBILITY THAT SEPARATE LEGAL DOCTRINE MAY EXIST CONCERNING SOVEREIGNTY AND JURISDICTION OF INTERNATIONAL TELECOMMUNICATIONS TRANSMISSIONS. EMBASSY THEREFORE WOULD APPRECIATE CLARIFICATION OF FOLLOWING LEGAL QUESTION: DOES MPT'S JURISDICTION OVER TRANSMISSIONS ORIGINATING IN JAPAN (AND SPECIFICALLY, THE RIGHT TO REGULATE MESSAGE SWITCHING) END WHEN MESSAGE LEAVES KDD'S INTERNATIONAL CIRCUITS AND IS SWITCHED TO U.S. DOMESTIC CIRCUITS, OR DOES MPT JURISDICTION EXTEND TO FINAL DESTINATION IN U.S.?

6. ACTION REQUESTED: REPLY TO QUESTION IN PARA 5.
SHOESMITH

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Message Attributes

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Channel Indicators: n/a
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Draft Date: 13 AUG 1976
Decaption Date: 01 JAN 1960
Decaption Note:
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Disposition Approved on Date:
Disposition Authority: BoyleJA
Disposition Case Number: n/a
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Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
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Enclosure: n/a
Executive Order: N/A
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Film Number: D760311-1293
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Handling Restrictions: n/a
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ISecure: 1
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